REMARKS

Claims 1 to 18 are pending, and have been restricted under 35 U.S.C. § 121 into the following six groups:

Group I: claims 1, 2, 5-7 and 13-15, drawn to methods of treating pathologies with anti-TGF beta antibodies, classified in Class 424, subclass 130.1.

Group II: claims 1, 3, 5, 6, 8 and 13-15, drawn to methods of treating pathologies with PDGF, classified in Class 514, subclass 8.

Group III: claims 1, 4-6, 9-10 and 13-15, drawn to methods of treating pathologies with RGD, classified in Class 514, subclass 12.

Group IV: claims 10-12, drawn to methods of detecting the presence of pathologies by determining the level of TGF-beta, classified in Class 435, subclass 7.1.

Group V: claims 16-17, drawn to TGF-beta-specific antibodies, classified in Class 530, subclass 387.1.

Group VI: claim 18, drawn to a cell line which produces an anti-TGF-beta antibody, classified in Class 435, subclass 326.

Election of invention

The Office Action states that one of the above-identified six groups of claims must be elected for examination. Applicants elect, with traverse, the claims of Group I, claims 1, 2, 5-7 and 13-15, which are drawn to methods of treating pathologies with anti-TGF beta antibodies, for examination. Applicant reserves the right to pursue prosecution of the non-elected claims in a later-filed application claiming the benefit of priority of the above-identified application.

Regarding the restriction requirement

Applicants respectfully traverse the restriction of the claims of Group I (claims 1, 2, 5-7 and 13-15) from the claims of Group IV (claims 10-12) and respectfully points out that two separate requirements must be met in order for restriction to be proper. First, the inventions must

be independent or distinct. Secondly, there must be a serious burden on the Examiner if restriction is required. See, for example, MPEP 803 (Restriction- When Proper), which states, in part:

> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Page 800-3; emphasis added.

Thus, it is not sufficient for an Examiner to assert that patentably distinct inventions are present in order to issue a Restriction Requirement or require an election of species. There also must be a serious burden on the Examiner to search and examine the entire application.

In the present case, the claims of Group I are directed to methods of treating pathologies with anti-TGF beta antibodies. The claims of Group IV are directed to methods of detecting the presence of pathologies by determining the level of TGF-beta. Given the extensive overlap between the methods for treating pathologies and the corresponding diagnostic methods, Applicants submits that the Examiner would not be seriously burdened to search and examine the Group IV claims with the claims of Group I.

Regarding the species election requirement

The Office Action sets forth a species election requirement with respect to the claims of Groups I, II, III and IV. Specifically, the Office Action indicates that Applicants must elect one species from among (a) glomerulonephritis; (b) ARDS and (c) liver cirrhosis, for examination.

Applicants elect, with traverse, the species glomerulonephritis, for examination. Claims 1-5, 11 and 12 read on the elected species. Applicants traverse the species election requirement

because the pathologies are all characterized by an accumulation of extracellular matrix in a tissue. As such, search and examination of claims 1, 2, 5-7 and 13-15, with respect to each glomerulonephritis, ARDS and liver cirrhosis, would not pose an undue burden on the Examiner.

CONCLUSION

In view of the remarks submitted herein, Applicants elect the claims of Group I, claims 1, 2, 5-7 and 13-15, which are drawn to methods of treating pathologies with anti-TGF beta antibodies, for examination. Applicants further elect the species of glomerulonephritis. Applicant respectfully requests reconsideration of the restriction and election of species requirement. The Examiner is invited to call the undersigned attorney if there are any questions relating to this matter.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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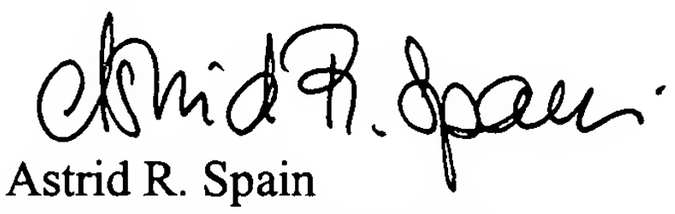

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